

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION

MICHAEL EDWARD VOYLES

PLAINTIFF

VS.

CIVIL ACTION NO. 3:13cv1041-DPJ-FKB

SCOTT MARQUARDT, et al.

DEFENDANTS

**REPORT AND RECOMMENDATION**

Michael Edward Voyles is a state prisoner incarcerated at the East Mississippi Correctional Facility (EMCF). He brought this action pursuant to 42 U.S.C. § 1983 alleging that conditions at the prison violate his rights under the Eighth Amendment. On April 30, 2014, a *Spears* hearing was held at which Plaintiff was given the opportunity to testify concerning his claims. Having considered that testimony, the undersigned recommends that this action be dismissed *sua sponte* pursuant to 28 U.S.C. § 1915(e)(2)(B)(i).

Plaintiff's complaints about life at EMCF are as follows. He alleges that gaps under the doors allow bathroom odors to escape into the eating areas, that meals are served from the same carts used for taking out trash, that food trays are not cleaned or dried properly, that food is served cold and is not seasoned, and that inadequate sanitation supplies are distributed to inmates.

In order to establish an Eighth Amendment claim based upon prison conditions, an inmate must show that he has been incarcerated under conditions that pose a substantial risk of serious harm to his health or safety and that prison officials knew of the risk and nevertheless disregarded it. *Farmer v. Brennan*, 511 U.S. 825, 834 (1994). Plaintiff's allegations fall far short of this standard. For these reasons, the undersigned

recommends that this action be dismissed as frivolous pursuant to 28 U.S.C. § 1915(e)(2)(B)(i).

The parties are hereby notified that failure to file written objections to the proposed findings, conclusions, and recommendation contained within this report and recommendation within fourteen (14) days after being served with a copy shall bar that party, except upon grounds of plain error, from attacking on appeal the proposed factual findings and legal conclusions accepted by the district court. 28 U.S.C. §636; Fed. R. Civ. P. 72(b); *Douglass v. United Services Automobile Ass'n*, 79 F.3d 1415, 1428-29 (5th Cir. 1996).

Respectfully submitted, this the 5th day of May, 2014.

/s/ F. Keith Ball  
UNITED STATES MAGISTRATE JUDGE